

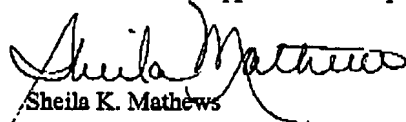
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Applicant: Mitchell
Serial No. 09/494,198
Filed: January 28, 2000
Docket No.: 00CR064/KE
For: System And Method For Internet Access On A Mobile Platform
Item: Amended Appeal Brief comprising of 21 pages


Sheila K. Mathews

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Atty. Dkt. No. 00CR064/KE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Mitchell, James P.
Title: SYSTEM AND METHOD FOR
INTERNET ACCESS ON A
MOBILE PLATFORM
Appl. No.: 09/494,198
Filing Date: 01/28/2000
Examiner: Sonny Trinh
Art Unit: 2685
Confirmation Number: 3140

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<u>11/19/07</u> (Date of Deposit)

AMENDED BRIEF ON APPEAL

Mail Stop – APPEAL BRIEF - PATENTS
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Amended Appeal Brief is being filed in response to the Notification of Non-Compliant Appeal Brief dated November 7, 2007 and the Final Office Action dated March 7, 2007 (finally rejecting Claims 1-17 and indicating as allowed Claims 18-28). The Notice of Appeal was filed on August 22, 2007. Appellant respectfully request reconsideration of the application.

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Under the provisions of 37 C.F.R. §41.37, the Appeal Brief was filed and authorization was given to charge deposit account 18-1722 in the amount of \$510.00 covering the 37 C.F.R. §41.20(b)(2) appeal fee on October 22, 2007. If this fee was deemed to be insufficient, authorization is hereby given to charge any deficiency (or credit any balance) to the undersigned deposit account 18-1722.

REAL PARTY IN INTEREST

This application has been assigned to and is presently owned by Rockwell Collins, Inc. having a place of business at 400 Collins Road NE, M/S 124-323, Cedar Rapids, IA 52498.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences known to Appellants, the Appellants' legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

This is an appeal from the Final Office Action mailed March 7, 2007, finally rejecting Claims 1-2, 4-9, 11-14, and 16-17 under 35 U.S.C. §103 (a) as being unpatentable over U.S. Patent No. 6,477,152 (Hiett) and finally rejecting Claims 3, 10 and 15 under 35 U.S.C. §103(a) as being unpatentable over Hiett in view of U.S. Patent No. 6,314,572 (LaRocca). Claims 18-28 have been allowed. Claims 1-28 are pending in the application and Claims 1-17 are the subject of the present appeal.

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STATUS OF AMENDMENTS

In response to the Final Office Action, the Applicant submitted Remarks on May 4, 2007 with arguments traversing the rejection of Claims 1-17 under 35 U.S.C. §103(a) and requesting reconsideration of the application. In an Advisory Action dated May 30, 2007, the Examiner stated "Applicant's arguments filed 05/04/07 have been fully considered but they are not persuasive." No amendment has been filed subsequent to the Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to a system and method which can be used to provide Internet access through a direct broadcast very low range receiver and a terminal on a mobile platform. See Specification at page 8, lines 1-5.

The system includes a direct receiver 60 utilized for communication between a mobile platform 35 and a docking area 37. See Specification at page 14, line 21 to page 15, line 2. Receiver 60 and a transmitter 70 or 66 can be configured to communicate over a high speed, low range direct channel. See Specification at page 15, lines 10-11. Direct transmitter 66 and transmitter 70 are preferably short range communication units. See Specification at page 16, lines 12-13. System 30 can be designed so that transmitters 66 and 70 only require a range of several feet or a few meters. See Specification at page 15, lines 13-14. In this way, several mobile platforms 35 can communicate to several docking area 37 without interferences and without utilizing different frequency ranges. See Specification at page 16, lines 12-18.

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Claim 1, the representative claim of the first group, is directed to a communication system 30 for a mobile platform 35. See Specification at page 12, lines 1-5; Figure 1; and Figure 2. The system includes a direct broadcast very low range receiver 60 located on a mobile platform 35 and limited to receiving signals transmitted from within a very short range. See Specification at page 14, line 26 to page 15, line 11; page 16, lines 12-18; Figure 1; and Figure 2. The system also includes a computer network 54 including at least one terminal 414 on the mobile platform 35. See Specification at page 14, lines 4-10; page 43, lines 3-9; Figure 1; and Figure 2. The terminal 414 provide Internet access through the direct broadcast receiver 60. See Specification at page 24, lines 1-7; page 43, lines 3-9; Figure 1; and Figure 2.

Claim 3, the representative claim of the second group, recites the communication system 30 recited in Claim 1 of the first group, further including a back channel transmitter 280. See Specification at 35, lines 11-28.

Claim 8 is directed to a method of providing Internet service to a mobile platform 35. See Specification at page 12, lines 1-5; page 14, line 26 to page 15, line 11; page 16, lines 12-18; page 24, lines 1-7; page 43, lines 3-9; Figure 1; and Figure 2. The mobile platform 35 including a direct broadcast receiver 60 located on the mobile platform 35 and computer network 54 including at least one terminal 414 on the mobile platform 35. See Specification at page 12, lines 1-5; page 14, lines 4-10; page 14, line 26 to page 15, line 11; page 16, lines 12-18; page 43, lines 3-9; Figure 1; and Figure 2. The method includes providing Internet data to the computer network 54 on the mobile platform 35 via the direct broadcast receiver 60 from a distance of less

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than a few meters the direct broadcast receiver 60 being limited to receiving signals transmitted from within a very short range; and providing the Internet data to the terminal 414. See Specification at page 12, lines 1-5; page 14, lines 4-10; page 14, line 26 to page 15, line 11; page 16, lines 12-18; page 24, lines 1-7; page 43, lines 3-9; Figure 1; and Figure 2.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether Claims 1-2, 4-9, 11-14, and 16-17 of group 1 may properly be rejected under 35 U.S.C. §103(a) over Hiett.
2. Whether Claims 3, 10 and 15 of group 2 may be properly rejected under 35 U.S.C. §103(a) over Hiett in view of LaRocca.

For the purposes of this appeal only, the grouping of the claims is as follows: (1) Claims 1-2, 4-9, 11-14, and 16-17 essentially stand together or fall together and are therefore grouped together. Independent Claim 1 is the representative claim for the group because it is the broadest claim in the group; and (2) Claims 3, 10, and 15 essentially stand together or fall together and are therefore grouped together. Dependent claim 3 is the representative claim for the group because it is the broadest claim in the group. (Claims 18-28 have already been allowed by the Examiner and are not being appealed.).

Thus, Appellant respectfully requests individual consideration of each of the two groups herein described. The separate patentability of groups 1 and 2 is discussed below in the argument. Group 3 has already been allowed by the Examiner and is not being appealed.

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ARGUMENT**REFERENCES RELIED UPON**

The following references were relied upon by the Examiner: U.S. Patent No. 6,477,152 to Hiett, issued November 5, 2002 and U.S. Patent No. 6,314,572 to LaRocca issued November 6, 2001.

BACKGROUND

The claim rejections to Claims 1-17 in this appeal are made under 35 U.S.C. §103(a). 35 U.S.C. § 103(a), which states:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made. Obviousness under 35 U.S.C. §103(a) is a legal conclusion involving four factual inquiries:

- (1) the scope and content of the prior art;
- (2) the differences between the claims and the prior art;
- (3) the level of ordinary skill in the pertinent art; and
- (4) secondary considerations, if any, of nonobviousness.

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See Graham v. John Deere Co., 383 U.S. 1, 148 U.S.P.Q. 459 (1966). See also KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1734, 82 USPQ2d 1385, 1391 (2007) (“While the sequence of these questions might be reordered in any particular case, the [Graham] factors continue to define the inquiry that controls.”).

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972). A broad conclusory statement regarding the obviousness of modifying a reference, standing alone, is not “evidence.” Thus, when an Examiner relies on general knowledge to negate patentability, that knowledge must be articulated and placed on the record. See In re Lee, 277 F.3d 1338, 1342-45, 61 USPQ2d 1430, 1433-35 (Fed. Cir. 2002). See also In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Recently, in KSR Int'l v. Teleflex, the Supreme Court rejected a rigid approach to the question of obviousness. 550 U.S. ___, 127 S.Ct. 1727, 1738 (2007). At the same time, however, the Supreme Court recognized that “inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.” *Id.* at 1741. Thus, a patent composed of several elements “is not proved obvious merely by demonstrating that each of its elements

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was, independently, known in the prior art.” *Id.* Therefore, there must be an articulated reasoning with a rational underpinning to support a legal conclusion of obviousness. *Id.* (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

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REJECTIONS

1. The claims of group 1 are not properly rejected with respect to the cited reference under 35 U.S.C. §103(a) because Hiett fails to disclose, teach or suggest each and every element of the claims in groups 1.

In Section 2 of the Final Office Action, the Examiner rejected Claims 1-2, 4-9, 11-14, and 16-17 under 35 U.S.C. 103(a) as being obvious over Hiett (US 6,477,152).

In rejecting Claim 1, the Examiner stated as follows:

Hiett teaches the apparatus and method for data communications for a mobile platform (figures 3-5, 7, detailed descriptions, abstract) comprising a very low range (column 9, line 28-31, "infrared signals") broadcast receiver located on the mobile platform (figure 5, element 506).

Hiett does not explicitly disclose that the received signals are transmitted from within a very short range. However, it would have been obvious that the teachings of Hiett would have suggested to an artisan that the in-airport ground-based transmitter, transmits, inter alia, over a very low range less than a few meters.

Applicant's respectfully disagree. Hiett does not disclose, suggest or motivate the subject matter recited in independent Claims 1 and 8 of group 1. Specifically, Hiett does not disclose, suggest or motivate a very low range direct broadcast receiver located on the mobile platform and limited to receiving signals transmitted from within a very short range, as recited in independent Claim 1. The Examiner did not articulate any teaching or suggestion of a broadcast receiver being limited to receiving signals transmitted from within a very short range. In fact, the Examiner never addressed this issue even after the Applicant stated:

Claims 1 and 8 were previously amended to recite that the direct broadcast very low range receiver is 'limited to receiving signals transmitted from within a very short range' ... [t]his limitation was

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not addressed by the Examiner in the received Office Action.
(Office Action Response dated 9/28/06, page 6, lines 10-14).

Further, Hiatt does not disclose, suggest or motivate providing Internet data to the computer network via the direct broadcast receiver from a distance of less than a few meters the direct broadcast receiver being limited to receiving signals transmitted from within a very short range, as recited in independent claim 8. Again, the Examiner did not articulate any teaching or suggestion of a broadcast receiver being limited to receiving signals transmitted from within a very short range. In fact, the Examiner never addressed this issue even after the Applicant stated:

Claims 1 and 8 were previously amended to recite that the direct broadcast very low range receiver is 'limited to receiving signals transmitted from within a very short range' ... [t]his limitation was not addressed by the Examiner in the received Office Action.
(Office Action Response dated 9/28/06, page 6, lines 10-14).

Claims 1 and 8 recite that the direct broadcast receiver is configured to be limited to receiving signals transmitted from within a very short range. Claim 1 recites a "very low range direct broadcast receiver ... limited to receiving signals transmitted from within a very short range." Claim 8 recites "providing Internet data to the computer network on the mobile platform via the direct broadcast receiver from a distance of less than a few meters the direct broadcast receiver being limited to receiving signals transmitted from within a very short range."

Applicant defined short or low range in the application, stating: "Direct transmitter 66 and transmitter 70 are preferably short range communication units. System 30 can be designed so that transmitters 66 and 70 only require a range of several feet or a few meters." See Specification, page 16, lines 11-13. Further, the application states "Wireless gatelink 130 can be a very short-range (several feet to a few meters) high-speed radio data link or high-speed

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optical data link.” See Specification, page 22, lines 12-15. The present application also states “In this way, several mobile platforms 35 can communicate to several docking areas 37 without interference and without utilizing different frequency ranges. In addition, utilizing short-range devices for receivers 60 and 72 and transmitter 70 allows smaller antennas ...” See Specification, page 16, lines 13-17.

In the Advisory Action, the Examiner stated that “from the disclosure [Hiett] of a ground-based system operating within 1000 feet of the airport, it would flow from the disclosure that it would have been obvious to operate the system of Hiett from 1000 down to zero feet or within a few meters.” However, Hiett does not show, describe or suggest short range direct broadcast receiver “limited to receiving signals transmitted from within a very short range,” as recited in independent claims 1 and 8. The receiver 106 in Hiett is not disclosed or suggested to be limited to receiving signals transmitted from within a very short range. Indeed, the only range discussed is a 1,000 foot range associated with a wireless LAN. See Hiett, col. 9, lines 23-26. The 1,000 foot range disclosed in Hiett shows that the receiver cannot be limited to receiving signals within a very short range, such as, several feet to a few meters. The very short range limitation of several feet to a few meters was previously defined by the Board of Patent Appeals and Interferences. (see Decision on Appeal dated 1/19/2006, page 8, lines 15-19). The system disclosed in Hiett could not operate over a 1,000 foot range with the receiver being limited to receiving signals transmitted within several feet to a few meters of the direct broadcast receiver. A person skilled in the art would not have used a system that can transmit signals over a 1,000 foot range with receivers that could not receive these signals because these signals were not

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transmitted from within several feet to a few meters. Therefore, the direct broadcast receiver being limited to receiving signals transmitted from within a very short range recited in independent Claims 1 and 8 is not disclosed, taught or suggested by Hiett.

A prima facie case of obviousness requires a finding that the prior art included each element claimed, although not necessarily in a single prior art reference. See Federal Register, Vol. 72, No. 195, October 10, 2007, page 57529. Accordingly, the Examiner's rejections of independent claims 1 and 8 of group 1 should be reversed because Hiett does not disclose, suggest, or motivate a direct broadcast receiver being limited to receiving signals transmitted from within a very short range. Also, the Examiner's rejections of dependent Claims 2, 4-7, 9, 11-14, and 16-17, which depend variously from independent Claims 1 and 8 should be reversed.

2. The claims of group 2 are not properly rejected with respect to the cited references under 35 U.S.C. §103(a) because the combination of Hiett and LaRocca does not teach or suggest each and every element of the claims in group 2.

The claims of group 2 are patentable under 35 U.S.C. §103(a) over Hiett in view of LaRocca because, even if combined, the combination of Hiett and LaRocca does not teach or suggest the subject matter of the claims. As stated above, Hiett fails to teach or suggest providing a direct broadcast receiver being limited to receiving signals transmitted from within a very short range.

LaRocca describes a method and apparatus for providing subscription on demand services for an interactive information distribution system using a back channel transmitter

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coupled to a cable transport subsystem (LaRocca, Col. 5, Lines 55-65). LaRocca does not describe a communication system for a mobile platform. Further, LaRocca does not describe providing Internet data to a computer network on a mobile platform via the direct broadcast receiver from a distance of less than a few meters the direct broadcast receiver being limited to receiving signals transmitted from within a very short range. Accordingly, LaRocca does not cure the deficiencies of Hiett and the prior art references do not teach or suggest all of the limitations in Claims 3, 10, and 15.

A prima facie case of obviousness requires a finding that the prior art included each element claimed, although not necessarily in a single prior art reference. See Federal Register, Vol. 72, No. 195, October 10, 2007, page 57529. Accordingly, the Examiner's rejections of Claims 3, 10, and 15 of group 2 should be reversed because neither Hiett nor LaRocca provide any suggestion for a direct broadcast receiver being limited to receiving signals transmitted from within a very short range.

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CONCLUSION

In view of the foregoing, Appellant submits that Claims 1-17 are not properly rejected with respect to the cited references under 35 U.S.C. §103(a). Accordingly, it is respectfully requested that the board reverse the claim rejections for Claims 1-17.

Respectfully submitted,

Date November 19, 2007

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By



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CLAIMS APPENDIX

1. (Previously Presented) A communication system for a mobile platform, comprising:

a direct broadcast very low range receiver located on the mobile platform and limited to receiving signals transmitted from within a very short range; and

a computer network including at least one terminal on the mobile platform, the terminal providing Internet access through the direct broadcast receiver.

2. (Original) The communication system of claim 1, wherein the Internet access is interactive access.

3. (Original) The communication system of claim 2, wherein the communication system includes a back channel transmitter.

4. (Previously Presented) The communication system of claim 1, wherein the mobile platform is a boat.

5. (Previously Presented) The communication system of claim 1, wherein the mobile platform is an automobile.

6. (Previously Presented) The communication system of claim 1, wherein the mobile platform is a train.

7. (Previously Presented) The communication system of claim 1, wherein the mobile platform is an aircraft.

8. (Previously Presented) A method of providing Internet service to a mobile platform, the mobile platform including a direct broadcast receiver located on the mobile

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platform and computer network including at least one terminal on the mobile platform, the method comprising:

providing Internet data to the computer network on the mobile platform via the direct broadcast receiver from a distance of less than a few meters the direct broadcast receiver being limited to receiving signals transmitted from within a very short range; and providing the Internet data to the terminal.

9. (Original) The method of claim 8, further comprising:

transmitting Internet commands from the network on the mobile platform.

10. (Original) The method of claim 8, wherein mobile platform includes a back channel transmitter, and the method further includes transmitting the Internet commands to the satellite from the back channel transmitter.

11. (Original) The method of claim 8, wherein the mobile platform is a boat.

12. (Original) The method of claim 8, wherein the mobile platform is an automobile.

13. (Original) The method of claim 8, wherein the mobile platform is a train.

14. (Original) The method of claim 8, wherein the mobile platform is an aircraft.

15. (Original) The method of claim 8, wherein mobile platform includes a back channel transmitter, and the method further includes transmitting the Internet commands to a terrestrial receiver from the back channel transmitter.

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16. (Original) The method of claim 15, wherein the commands are forwarded to an Internet service provider.

17. (Original) The method of claim 16, wherein the Internet service provider responds to the commands via the direct broadcast receiver.

18. (Original) A method of providing electronic browsing service in a mobile platform, the mobile platform including at least one terminal, the method comprising:

receiving order wire data indicating a default homepage from an external source;

and

beginning the electronic browsing service at the default homepage.

19. (Original) The method of claim 18, wherein the external source is a docking area transmitter.

20. (Original) The method of claim 18, wherein the default homepage is selected in response to a destination of the mobile platform.

21. (Original) The method of claim 18, wherein the order wire data includes the default homepage.

22. (Original) The method of claim 18 wherein the order wire data includes an address of the default homepage.

23. (Previously Presented) A communication system for a mobile platform, comprising:

a wireless receiver;

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a computer network coupled to the wireless receiver, the wireless receiver receiving a default homepage indication from an external source on the wireless receiver when the mobile platform is parked; and

a terminal coupled to the computer network, the terminal beginning a browsing operation at a default homepage associated with the default homepage indication.

24. (Previously Presented) A method of providing an electronic browsing service on a mobile platform, the mobile platform including at least one terminal, the method comprising:

receiving order wire information from an external source identifying advertising spots;

storing the advertising spots on the mobile platform for subsequent display; and displaying the advertising spots during the electronic browsing service.

25. (Original) The method of claim 24 wherein the order wire data includes the advertising spots.

26. (Original) The method of claim 24 wherein the order wire data includes advertising spots.

27. (Previously Presented) The method of claim 26, wherein the advertising spots are related to a destination of the mobile platform.

28. (Previously Presented) A communication system for a mobile platform, comprising:

a receiver;

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a computer network coupled to the receiver, the receiver receiving an advertising spots indication and storing the advertising spots for subsequent display; and

a terminal coupled to the computer network, the terminal providing advertising spots during a browsing operation, the advertising spots being associated with the advertising spots indication.

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EVIDENCE APPENDIX

Appellant is submitting no additional evidence at this time.

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RELATED PROCEEDINGS APPENDIX

There are no related appeals or interferences.